

June 12, 2003

IN RE: DOCKET NO. 2002-416-C – Proceeding for the establishment of a requirement that non-facilities based CLEC's providing prepaid local telephone service be required to post an appropriate Surety Bond.

^{REBUTTAL}
COPY OF **TESTIMONY OF JAMES M. MCDANIEL ON BEHALF OF THE PUBLIC SERVICE COMMISSION** HAS BEEN DISTRIBUTED TO THE FOLLOWING:

J. McDaniel

Legal

Exec. Asst.

P. Riley

Exec. Director

Manager, Utils Dept.

Audit (1)

Commissioners (7)

pao



Gary E. Walsh
Executive Director
Phone: (803) 896-5133
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The Public Service Commission State of South Carolina

June 11, 2003

Honorable Gary E. Walsh
Executive Director
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, SC 29211

RE: Docket No. 2002-416-C – Proceeding for the Establishment of a Requirement that Non-facilities Based CLECs Providing Prepaid Local Telephone Service be Required to Post a Surety Bond.

Dear Mr. Walsh:

Pursuant to R.103-869 of the Commission's Rules and Regulations, I am herein enclosing the original and twenty-five (25) copies of the rebuttal testimony intended to be offered by the one (1) witness for the Commission Staff in the above referenced proceeding. Copies of the testimony are being served on the parties of record as per attached Certificate of Service.

If I may be of further assistance, please do not hesitate to contact me.

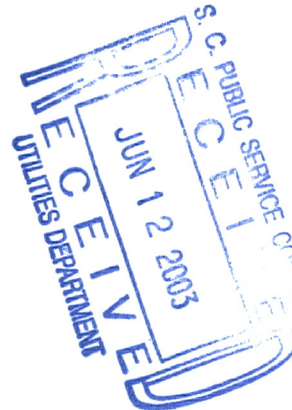
Sincerely,

F. David Butler
General Counsel

FDB/hha
Enclosures

cc: All Parties of Record

POSTED
Docket 12/03



Jim L. F. P. R.
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**BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA**

DOCKET NO. 2002-416-C

SC PSC
COMMISSION
2003 JUN 11 PM 4:04
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IN THE MATTER OF:

Proceeding for the Establishment of a Requirement)	CERTIFICATE OF SERVICE
that Non-Facilities Based CLECs Providing PrePaid)	(Via E-Mail Transmission and
Local Telephone Service be Required to Post a Surety)	U.S. Postal Service-First Class Mail)
Bond)	

I, Hope H. Adams, do hereby certify that I have on the date indicated below served the following named individual(s) with one (1) copy of the pleading(s) listed below by e-mail transmission and U.S. First Class Mail with sufficient postage attached and return address clearly marked.

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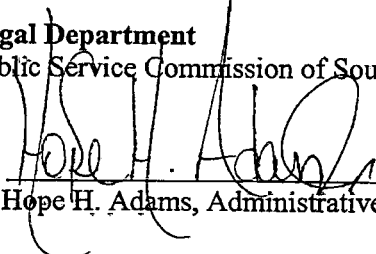
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PLEADING(S): Rebuttal Testimony of Commission Staff: James McDaniel, Utilities Department

**Legal Department
Public Service Commission of South Carolina**

By: 
Hope H. Adams, Administrative Assistant

Columbia, South Carolina
June 11, 2003

Q. WOULD YOU PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION?

A. James M. McDaniel, 101 Executive Center Drive, Columbia, South Carolina. I am employed by the Public Service Commission of South Carolina (Commission). I current hold the position of Chief of Telecommunications within the Utilities Department.

Q. WOULD YOU PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND YOUR BUSINESS EXPERIENCE?

A. I received a Bachelor of Science Degree in Engineering from the University of South Carolina in December of 1975. I was employed by the Public Service Commission of South Carolina in February of 1976, where I have always worked in the Utilities Department. My specific assignments have been in the area of regulation of the telecommunications industry.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?

A. During my tenure with the Commission, I have offered testimony in proceedings concerning ratemaking, rate design, depreciation, rulemaking, and complaints.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to respond to the direct testimony submitted by the other parties in this Docket.

Q. DO YOU FEEL THAT A BOND SHOULD BE REQUIRED FOR CARRIERS PROVIDING COMPETITIVE PREPAID LOCAL EXCHANGE SERVICES?

A. I continue to recommend that the Commission establish a mechanism to protect the consumers. As indicated in the testimony submitted on behalf of the National ALEC Association/Prepaid Communications Association (NALA), the typical customers served by the prepaid local exchange carrier are individuals who are considered high risk customers. For example, these consumers generally are poor or have no credit history, and are therefore unable to meet the payment security requirements of the incumbent local exchange carriers. While these consumers may have alternative

1 means of obtaining service through other competitive prepaid local exchange carriers
2 or perhaps negotiating terms with the incumbent local exchange carrier, these
3 consumers are further challenged by having to obtain additional funding to establish
4 service with another carrier when their existing telecommunications service provider
5 unexpectedly exits the market. Clearly, a bond requirement would be a method of
6 protecting consumers who are already financially struggling and are probably the
7 least able to absorb the loss of charges collected for prepaid local exchange service.

8
9 I suggested the methodology established by the Louisiana Commission because it
10 appeared to be a straight-forward method of determining an appropriate size bond
11 and may eliminate the nightmare associated with determining how many days the
12 consumer may need to be reimbursed for loss of prepaid service, in that the size of
13 the bond is a function of the number of access lines, the monthly rate, and the deposit
14 collected from the consumer. If the prepaid local exchange carrier does not collect
15 deposits from its customers, then the size of the bond would appropriately reflect this
16 fact through the formula. While the quarterly reporting may be burdensome for the
17 prepaid local exchange carriers, it does provide the ability to properly size the fund
18 based on current circumstances. However, my suggestion is not intended to prohibit
19 the Commission from modifying the Louisiana methodology to reflect the social,
20 economical, and political environment which exists in the State of South Carolina.

21
22 **Q. HAVE YOU REVIEWED THE TESTIMONY OF MR. NESMITH**
23 **SUBMITTED ON BEHALF OF THE SOUTH CAROLINA TELEPHONE**
24 **COALITION?**

25
26 **A.** I have reviewed his testimony.

27
28 **Q. DO YOU HAVE ANY COMMENTS CONCERNING THE**
29 **RECOMMENDATIONS MADE IN THE TESTIMONY OF MR. NESMITH**
30 **ON BEHALF OF THE SOUTH CAROLINA TELEPHONE COALITION?**
31

1 A. One of the recommendations made in Mr. Nesmith's testimony is that a bond
2 requirement be sufficient to protect the interest of the underlying carriers and its
3 customers. I am concerned that the interest of the underlying carrier may be difficult
4 for the Commission to consider in sizing any bond requirement. The amounts owed
5 by the prepaid local exchange carrier to the underlying incumbent local exchange
6 carriers may be impacted by a number of variables. For example, the incumbent
7 company, through its own policies, may extend credit to a carrier customer. Also, it
8 is difficult to determine where some of the prepaid local exchange carriers are actually
9 offering its services. Further, in some cases, the incumbent local exchange carrier
10 may have already taken action through its negotiated resale or interconnection
11 agreement to protect its interest, as well as its customers.

12
13 **Q. IN YOUR PREFILED DIRECT TESTIMONY, WAS IT YOUR INTENT,**
14 **THROUGH THE RECOMMENDATION CONCERNING ALLOWING**
15 **CONTRACTUAL ARRANGEMENTS BETWEEN END USER AND THE**
16 **CARRIER TO GOVERN THE MANNER IN WHICH PREPAID LOCAL**
17 **SERVICE IS PROVISIONED, TO ELIMINATE THE NEED FOR CARRIER**
18 **TO FILE TARIFFS WITH THE COMMISSION?**

19
20 A. No. Based on my understanding of state law, all carriers are required to file a rate
21 schedule with the Commission. The rate schedule contemplated by law would be the
22 company's tariff. Therefore, my recommendation was not intended to contradict the
23 statutory requirements for telecommunications carriers operating with the State.

24
25 Clearly, the form of the tariff would need to be modified to remove the current rates
26 and charges. Language would need to be added to indicate that the current rates and
27 charges will be governed by contractual arrangements and would be offered on a
28 non-discriminatory basis to similarly situated customers. Under the current flexible
29 regulatory tariff procedures established for competitive local exchange carriers, the
30 tariffs are required to reflect the maximum rate schedules. I think this requirement
31 would continue. In summary, carriers would continue to file tariffs with the

1 Commission. These local tariffs would include the maximum rates and language
2 indicating the current rates will be offered on a contractual basis.
3

4 **Q. DOES THIS COMPLETE YOUR REBUTTAL TESTIMONY?**

5
6 **A.** It does.
7